

COMPLAINTS

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REPORTING REQUIREMENT	Annual	
LEGISLATION	<i>Police Services Act, R.S.O. 1990, c.P.15, as amended, s. 31(1)(c). Part V</i>	
DERIVATION	Adequacy Standards Regulation – AA-001	

The Toronto Police Services Board (the “Board”) is required to establish policies for the effective management of the police service (s.31(1)c). In particular, the Board has the responsibility to establish guidelines for dealing with complaints made under Part V of *the Police Services Act* (the “Act”) to review the Chief of Police’s administration of the complaints system under Part V, and to receive regular reports from the Chief of Police on his or her administration of the complaints system (s.31(1)(j)).

The discipline process has evolved over time. It is important that the discipline system and the complaints process be viewed as fair, consistent and transparent. There must be

recognition of the public interest and the need to ensure public confidence in the internal discipline process. In addition, the Board is accountable to the public to oversee the complaints process.

Bill 103, the *Independent Police Review Act, 2007*, amended the *Police Services Act* by establishing the new Office of the Independent Police Review Director [OIPRD] and creating a new public complaints process. The Office of the Independent Police Review Director opened in October 2009.

The purpose of this policy is to ensure that:

1. The Chief of Police's administration of the complaints system and the internal discipline process is effective, professional and efficient;
2. The Board's oversight of the complaints system through reviews of service and policy complaints is fair, objective and timely; and,
3. Accountability to the public with respect to the complaints process is discharged in a manner that is meaningful and transparent.

PUBLIC COMPLAINT PROCESS

Any member of the public can make a complaint about the policies of or services provided by the Toronto Police Service or the conduct of a police officer. All complaints must be filed with and reviewed by the OIPRD. Complaints must be signed and filed on a form prescribed by the OIPRD. The OIPRD reviews all complaints.

The OIPRD may refuse to deal with a complaint if:

- the complaint is made more than six months after the fact on which it is based occurred;
- the Independent Police Review Director is of the opinion that the complaint is frivolous, vexatious or made in bad faith, could be more appropriately dealt with, in whole or in part, under another Act or another law, or having regard to all the circumstances, dealing with the complaint is not in the public interest, or
- the complainant was not directly affected by the policy, service or conduct that is the basis of the complaint.

RULES OF PROCEDURE

The Independent Police Review Director has the authority under the *Act* to make rules to govern its practices and procedures.. The purpose of these rules is to enable the OIPRD to fulfil its mandate under Part V of the *Act* by providing a fair, open and accessible process to deal with the complaints made by members of the public under the *Act*.

POSTING OF INFORMATION ABOUT THE COMPLAINTS PROCESS

It is the policy of the Toronto Police Services Board that:

1. The Chief of Police is required to post or display information about the complaints process in an area that is readily accessible to the public and in the form provided by the OIPRD.

COMPLAINTS ABOUT CONDUCT

If the complaint is about the conduct of a police officer, other than the Chief or Police or Deputy Chief of Police, the Independent Police Review Director will refer it to the Chief of Police of the Toronto Police Service, the Chief of Police of another police service or, retain it and deal with it.

It is the policy of the Toronto Police Services Board that:

2. The Chief of Police will develop and maintain procedures for processing complaints about the conduct of a police officer of the Toronto Police Service, in accordance with the directions of the OIPRD and the provisions of the *Act*, including reference to: the delegation of the Chief's authority to administer public complaints; the complaint intake process and the provision of information to the public about this process; the notification to complainants throughout the process; the informal resolution process; the holding of hearings; the disposition of complaints; and the expunging of entries in a police officer's employment record, where appropriate; and
3. The Chief of Police will cause every complaint referred to him or her by the Independent Police Review Director to be investigated and the investigation to be reported on in a written report.
4. Upon the conclusion of the investigation, the Chief of Police, unless he or she decides that the complaint is unsubstantiated, may hold a hearing into the matter or may attempt to resolve the matter informally in specified circumstances.

A complainant may request that the Independent Police Review Director review certain decisions made by the chief of police, such as a decision that a complaint is unsubstantiated. In the alternative, the Independent Police Review Director may refer this type of complaint to a chief of police of a police force other than the police force to which the complaint relates for investigation, or may retain the complaint and conduct his or her own investigation into the matter.

Under section 72 of the *Act*, the Independent Police Review Director may, with respect to a complaint made by a member of the public about the conduct of a police officer, at any time after the complaint is referred to the Chief of Police and before a hearing is commenced, direct the Chief of Police to deal with the complaint as the Independent Police Review Director specifies, assign the investigation of the complaint or the conduct of a hearing to the chief of police of a police force other than the Toronto Police Service, take over the investigation of the complaint or take or require to be taken by the Chief of Police any other action with respect to the complaint that the Independent Police Review Director deems necessary in the circumstances .

COMPLAINTS ABOUT POLICIES OR SERVICES

If the complaint is about the policies of or services provided by the Toronto Police Service, the Independent Police Review Director may decide not to deal further with the complaint or may refer it to the Chief of Police, who must review the complaint and take any action, or no action, in response to the complaint as he or she considers appropriate. His or her decision may be reviewed by the Board.

It is the policy of the Toronto Police Services Board that:

5. The Chief of Police will develop and maintain procedures for processing complaints about policies of or services provided by the Toronto Police Service, in accordance with the procedural rules of the OIPRD, as provided for in s. 56.(1) of the *Act*, and the provisions of the *Act*, including reference to: the delegation of the Chief's authority to administer public complaints; the complaint intake process and the provision of information to the public about this process; the notification to complainants throughout the process; the local resolution process; and, the disposition of complaints;
6. The Chief of Police will ensure that, upon his or her disposition of the complaint, a written report is submitted to the Board and to the OIPRD respecting the disposition, with reasons;
7. Upon receipt of a request by a complainant for a review by the Board of a complaint, the Board will advise the Chief of Police of the request, review the complaint, take any action, or no action, in response to the complaint, as it considers appropriate;
8. The Board may appoint a committee of not fewer than three Board Members, two of whom constitute a quorum, to review a complaint and to make recommendations to the Board after the review, at which time the Board will take any action, or no action, in response to the complaint, as the Board considers appropriate;

9. In conducting a review, the Board or committee may hold a public meeting respecting the complaint; and
10. The Board will notify the complainant, the Chief of Police and the Independent Police Review Director in writing of its disposition of the complaint, with reasons.

COMPLAINTS AGAINST CHIEF OF POLICE OR DEPUTY CHIEF OF POLICE

In the case of a complaint about the conduct of the Chief or Deputy Chief of Police, the OIPRD will refer the complaint to the Board.

It is the policy of the Toronto Police Services Board that:

11. The Board will review the complaint and if, in the Board's opinion, the conduct complained of may constitute a specified offence, misconduct or unsatisfactory work performance, the Board will ask the Independent Police Review Director to investigate the complaint.
12. In the case of an investigation by the Independent Police Review Director, the Board will pay the costs of the investigation.
13. Following the investigation, unless the Independent Police Review Director determines the complaint to be unsubstantiated, the Board may hold a hearing into the matter, refer the matter to the Ontario Civilian Police Commission to hear the matter, or attempt to resolve the matter informally (in specified circumstances).
14. Informal resolution may be used if, on a review of the written report by the Independent Police Review Director, the Board is of the opinion that there was misconduct or unsatisfactory work performance but that it was not of a serious nature and if the Chief of Police or Deputy Chief of Police and the complainant consent to the proposed resolution.
15. The Board will expunge an entry made into the Chief of Police or Deputy Chief of Police's employment record two years after it was made if, during that time, no other entries concerning misconduct or unsatisfactory work performance have been made.

DIRECTED COMPLAINTS

The Independent Police Review Director has the authority to direct complaints. In the case of a complaint against the Chief of Police or Deputy Chief of Police, the Independent Police Review Director may direct the Board to deal with the complaint as he or she specifies, assign the conduct of a hearing in respect of a complaint to the Commission or take or require to be taken by the Board any other action with respect to the complaint that he or she considers necessary in the circumstances.

It is the policy of the Toronto Police Services Board that:

16. If the Independent Police Review Director directs that a complaint is to be dealt with as specified, the Board will promptly so deal with the complaint.
17. If the Independent Police Review Director requires that the Board take an action with respect to a complaint, the Board will promptly cause such action to be taken.

EXCEPTION TO SIX-MONTH LIMITATION PERIOD

Section 83(17) of the *Act* imposes an important procedural responsibility on the Board with respect to the hearing process in the case of conduct complaints against officers.

A limitation period exists that prohibits a notice of hearing to be served if more than six months has elapsed since the day on which a) the Chief of Police received the conduct complaint referred to him or her by the Independent Police Review Director; b) the day on which the conduct complaint was retained by the Independent Police Review Director; c) the day on which the Board received the complaint about the conduct of the Chief of Police or the Deputy Chief of Police by the Independent Police Review Director or; d) where the complaint was made by a Chief or Board, the day on which the facts on which the complaint is based first came to the attention of the Chief or Board.

The Board may authorize the serving of the notice if it is of the opinion that it was reasonable, under the circumstances, for the Chief of Police to delay serving the notice of hearing. These requests for exceptions to the limitation period provided for in the *Act* are commonly referred to as “delay applications.”

It is the policy of the Toronto Police Services Board that:

18. Where the Chief of Police is requesting that the Board authorize the serving of the notice under section 83(17) of the *Act*, he or she will prepare a Board report requesting that the Board approve service of the notice of hearing.
19. In the Board report, the Chief of Police will provide a chronology of the investigation, and the reasons for the delay, from the date upon which the limitation

period commenced, as outlined in section 83(17) of the *Act*, until the date upon which the Chief of Police made a delay application to the Board, in the form of a Board report.

ACCOUNTABILITY OF THE CHIEF OF POLICE

The Chief of Police will provide to the Board all procedures related to this policy. The Board will hold these procedures in confidence, having satisfied itself that the procedures fully satisfy the requirements of this policy.

Further, the Chief of Police will provide a comprehensive public annual report to the Board detailing all public complaints made during a calendar year, including the grounds of the complaints, the nature of their disposition and an analysis of the trends in the number, grounds and disposition of the public complaints over a five-year period. This report will be due no later than March of the following year.

PERFORMANCE AUDITS

The Independent Police Review Director may, at any time, require the Board to submit to him or her a performance audit of the Board's administration of complaints, conducted by an independent auditor, at the Board's expense. The Independent Police Review Director may, from time to time, conduct a performance audit of any aspect of the administration of complaints by the Board.

It is the policy of the Toronto Police Services Board that:

20. Performance audits will be conducted in accordance with the directions of the OIPRD and section 91 of the *Act*.

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